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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,756	04/14/2004	Didier Frantz	02-004	5072
50524	7590	12/14/2006	EXAMINER	
SCANBUY, INC. 54 WEST 39TH STREET FOURTH FLOOR NEW YORK, NY 10018				LABAZE, EDWYN
		ART UNIT		PAPER NUMBER
		2876		

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/823,756	FRANTZ ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	EDWYN LABAZE	2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 April 2006.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____.                                     |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____.                         |

### **DETAILED ACTION**

1. Claims 1-15 are presented for examination.
2. This application claims the benefits of 60/487,238 filed on 7/16/2003.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Balent (US 2003/0158796).

Re claims 1 and 9: Balent teaches distributed personal automation and shopping method, apparatus, and process, which includes scanning {using barcode scanner, radio frequency tag reader and the like} at least one client machine readable code {herein a bar code} with a scanner (paragraphs 187+, 191-202+); scanning at least one product machine readable code with said scanner (paragraphs 233, 247-248, 256+, 376+), transmitting said scanned client machine readable codes and said product machine readable codes stored in said scanner to a computer (paragraphs 186+, 244+, 351-353+, 373-376+); creating a shopping list for each client and each vendor by using said client machine readable code to identify the owner of the shopping cart and by using a predetermined vendor preference list stored on said computer to assign each product machine readable code to a different vendor shopping list for each client (see paragraph 275,

Art Unit: 2876

293-297, 453-462 and also claim 5 of Balent); transmitting said shopping lists to the appropriate e-commerce website operated by said designated vendor for each client (see paragraphs 186+, 373-376, 522-524, 534+; and also claim 14 of Balent); and completing the aggregate ordering for each client, by placing the order for each client using each of said e-commerce websites (paragraph 443). Balent further teaches software application (see paragraphs 42+, 59-60, 257-268+) and a computer 1c for connecting the scanner to upload the client/buyer machine-readable codes and product barcodes (paragraphs 43+, 59-64, 90+, 186+).

Re claims 2 and 10: Balent discloses method and apparatus, wherein the product machine-readable code is a barcode (see figs. # 7, 27a, 36b, 37, 39-40; paragraphs 193-202, 233+, 248+).

Re claims 3 and 11: Balent teaches method and apparatus, wherein the product machine-readable code is a RFID tag (paragraphs 323, 371, 385, 415, 533).

Re claims 4 and 12: Balent discloses method and apparatus, wherein said product machine readable code is constructed from at least one of the standardized barcode symbology libraries consisting of the group of UPC-A, UPC-E, ISBN, RSS-14, RSS-14E, RSS-14L, Interleaved 2 of 5, EAN/JAN-8, EAN/JAN-13, Code 3, Code 39 Full ASCII, Code 128, PDF417, QR Code, or Data Matrix (paragraphs 43-44, 53-57, 195-202+).

Re claim 5: Balent teaches method and apparatus, wherein said step of creating shopping lists comprises the steps of: identifying the first client {herein described as buyer 1a} machine readable code from said uploaded information (paragraphs 61-65, 207-219, 248+); creating a first vendor shopping list for said first client by placing all product machine readable codes found in a first preferred vendor database to said first vendor shopping list (paragraphs 293+);

creating additional shopping lists for each vendor for said first client by utilizing a plurality of preferred vendor databases in an assigned order (paragraphs 227+, 259-266+); and creating shopping lists in the same manner for each additional client (paragraphs 442-453, 458-463+).

Re claims 6-7 and 13-14: Balent discloses method and apparatus, wherein the scanner is a laser-barcode (paragraphs 52-55, 196+) and wherein the scanner utilizes optical recognition techniques (paragraphs 256-258, 323-325+).

Re claims 8 and 15: Balent teaches method and apparatus, wherein the scanner is a RFID scanner/reader (paragraphs 370, 447+; also see claim 7 of Balent).

### *Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Joseph (US 2003/0177069) discloses real time inventory display and retail sales system.

Fuzell-Casey et al. (US 2004/0039661) teaches list-based selection system and methods for using same.

Irwin et al. (US 2004/0103023) discloses coupon barcode Internet verification system.

Gordon et al. (US 2006/0149640) teaches integrating electronic and traditional retail.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWYN LABAZE whose telephone number is (571) 272-2395. The examiner can normally be reached on 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

el  
Edwyn Labaze  
Patent Examiner  
Art Unit 2876  
December 1, 2006

  
**THIEN M. LE**  
**PRIMARY EXAMINER**